

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

The following agencies of the state of Idaho have published the complete text and all related, pertinent information concerning their intent to change or make the following rules in the new issue of the state Administrative Bulletin.

*The written comment deadline is October 22, 2008, unless otherwise listed.
(Temp & Prop) The Rule is both Temporary and Proposed.
(*PH) A Public Hearing has been scheduled.*

IDAPA 16 - DEPARTMENT OF HEALTH AND WELFARE PO Box 83720, Boise, ID 83720-0036

16-0601-0801, Rules Governing Family and Children's Services. Clarifies due process language; replaces references to what "a reasonable person would conclude" with "evidence-based" language; deletes children's mental health services from this chapter; updates rules regarding federally-funded adoption and foster care assistance and streamlines and decentralizes the Department's adoption process; changes chapter name to "Child and Family Services."

16-0602-0802, Rules Governing Standards for Child Care Licensing. Clarifies application, inspection, and criminal history and background check fees charged for day care licensing.

16.06.12 - Idaho Child Care Program (ICCP)

16-0612-0802, (*PH) Requires providers and individuals receiving ICCP payments to have a criminal history and background check.

16-0612-0803, (*PH) Clarifies application, inspection, and criminal history and background check fees charged for day care licensing.

16-0737-0801, Children's Mental Health Services. New chapter defines the scope of services and establishes eligibility criteria, application requirements, services, and appeal process.

IDAPA 17 - INDUSTRIAL COMMISSION PO Box 83720, Boise, ID 83720-0041

17-0208-0802, Miscellaneous Provisions. Adjusts the conversion factors for medical provider payments by the inflation factor percentage for Medicaid covered services; clarifies that rules apply to all entities providing services to injured workers even as agents; redefines medical "provider"; provides a medical fee schedule for hospitals providing medical services to injured Idaho workers. Comment by: 10/31/08.

IDAPA 18 - DEPARTMENT OF INSURANCE PO Box 83720, Boise, ID 83720-0043

18.01.39 - Rebates and Illegal Inducements in Title Insurance Business

18-0139-0801, Chapter repeal.

18-0139-0802, Chapter rewrite conforms rule to statute by requiring that producers of title insurance provide disclosure of a financial interest in a title entity to which they refer title insurance consumers.

18-0143-0801, Certification of Fire Inspectors. Establishes uniform training for all persons acting as assistants to the

state fire marshal and a mechanism for continuing education; changes chapter name and amends the scope of the rule.

18-0144-0801, *Schedule of Fees, Licenses and Miscellaneous Charges*. Imposes a filing fee for policy rates and forms submitted for filing in paper form.

18-0161-0801, *Credit Life and Credit Disability Insurance*. Corrects obsolete code references and terminology and removes inconsistencies with the current law.

18-0173-0801, *Rule to Implement the Individual Health Insurance Availability Act Plan Design*. Increases lifetime maximum benefit for organ transplants to \$250,000; makes cosmetic surgery benefit consistent with minimum requirements for individual health benefit plans established by IDAPA 18.01.30.

IDAPA 21 - DIVISION OF VETERANS SERVICES

320 Collins Road, Boise, ID 83702

21-0101-0801, *Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure*. Aligns appeals process with the APA to accommodate more complicated appeals; establishes provisions for notices of transfer and notices of discharge for bases not previously addressed; allows Administrator to designate a hearing officer other than the Veterans Affairs Commission when issues are legally complex or too time consuming.

IDAPA 24 - BUREAU OF OCCUPATIONAL LICENSES

1109 Main St., Ste. 220, Boise, ID 83702

24.04.01 - *Rules of the Board of Cosmetology*

24-0401-0801, (Temp & Prop) Allows Board to use a third party exam administrator; exams will rotate on a monthly basis in 3 locations statewide; no longer requires enrolling cosmetology students to register with Board; deletes requirement that applicants pass a jurisprudence exam; revises application to include proof of acceptable exam as information establishing qualifications.

24-0401-0802, Decreases initial license and renewal fees; deletes exam fee which is now paid directly to test administrator; clarifies location of restroom facilities for establishments; adds hours credited toward licensure to allow partial credit for courses if training changes from cosmetology to esthetics; corrects reference for electrology apprentice; adds haircutter into the apprentice sections.

24.08.01 - *Rules of the State Board of Morticians*

24-0801-0801, (Temp & Prop) Requires a licensed resident trainee to make 25 funeral arrangements and conduct 25 funerals as part of training.

24-0801-0802, Removes the reinstatement fee from rule which is set in Idaho Code at \$250.

24-1201-0801, *Rules of the Idaho State Board of Psychologist Examiners*. Establishes deadline for applications and responsibility for updating files; clarifies who sets time and date of exams; changes senior psychologist qualifications; continuing education includes 4 hours of ethics in a 3-year cycle; aligns educational requirements with American Psychology Association standards; adds a guideline in employment of unlicensed individuals.

24-1401-0801, *Rules of the State Board of Social Work Examiners*. Adds inactive status provision; increases application, original license, renewal, and endorsement fees.

24-2101-0801, *Rules of the Idaho State Contractors Board*. Upon notification of applicant Board may terminate pending or incomplete applications after 1 year of inactivity.

***24-2401-0801, *Rules of the Board of Naturopathic Medical Examiners*.** (*PH) New chapter provides contact information and definitions and establishes application process, requirements for licensure, fees, examination, renewal process, scope of practice, certification, and standards for continuing education.

IDAPA 25 - OUTFITTERS AND GUIDES LICENSING BOARD

1365 North Orchard, Suite 172, Boise, ID 83706

25-0101-0801, *Rules of the Outfitters and Guides Licensing Board*. Removes requirement that outfitters submit all training documents on their guides to the Board for review and storage.

IDAPA 26 - IDAHO DEPARTMENT OF PARKS AND RECREATION**PO Box 83720, Boise, ID 83720-0065****26.01.20 - Rules Governing the Administration of Park and Recreation Areas and Facilities****26-0120-0801**, Increases the fee ceiling for park campsites.**26-0120-0802**, Operation of motorized vehicles for ingress and egress to campsites or other in-park destinations is permitted inside any state park; group use permits for 250 people or more require agency Director approval, including permits involving alcohol sales; allows 45-day advance notice requirement to be waived; clarifies use of saddle or other recreational packing livestock in parks; provides for more definitive guidance for agency staff in wildfire management issues; clarifies that hunting or pursuit of wildlife in a park is subject to IDFG rules.**IDAPA 27 - BOARD OF PHARMACY****PO Box 83720, Boise, ID 83720-0067****27.01.01 - Rules of the Idaho Board of Pharmacy.****27-0101-0805**, Defines "student pharmacist" which includes interns and externs; removes redundant and obsolete language regarding licensing requirements; permits on-line web applications as an acceptable access medium for the same types of items accessible through computer diskette; deletes the controlled substance limitation for externs and interns to communicate to another pharmacist prescription transfer information; includes skilled nursing facilities as a permitted facility to use a formulary prepared by its pharmacy and therapeutics committee for drug substitution purposes; permits annual inventory to be taken within a range of days of the prior year's inventory.**27-0101-0806**, Clarifies the limits of evidentiary presumption in controlled substance registration suspension or revocation proceedings.**27-0101-0807**, Establishes requirements for participating in and operating a Pilot Remote Pharmacy through the Remote Dispensing Pilot Program.**27-0101-0808**, Changes relate to pharmacy practice in institutional facilities; defines "long-term care facility," "chart order," and "prepackaging"; permits chart order to serve as a prescription drug order in institutional facilities for the dispensing and disposal of drugs; permits, in certain circumstances, pharmacies that provide pharmaceutical care services under a contract with an institutional facility to contract with another pharmacy to provide such services when needed.**27-0101-0809**, Increases wholesale distributor license fee to cover cost of criminal background checks.**27-0101-0810**, Requires that a pharmacist-in-charge work at that pharmacy a certain amount of time during a work week or work month.**27-0101-0811**, Requires that pharmacy technicians meet minimum age, education, and other requirements for registration and certification by Board; clarifies who may work within the area that constitutes a "pharmacy"; increases permissible ratio of pharmacists to pharmacy technicians in any practice setting; addresses other matters related to technician ratio.**IDAPA 31 - IDAHO PUBLIC UTILITIES COMMISSION****PO Box 83720, Boise, ID 83720-0074****31-0101-0801, Rules of Procedure of the Idaho Public Utilities Commission.** Provides for electronic filing of certain documents; codifies the information competitive local exchange carriers must file in their applications to provide local exchange service in Idaho; allows applicant to file reply comments in cases processed under Modified Procedure; shortens time to answer discovery requests to 21 days; delineates two types of formal hearings: technical hearings and customer hearings; requires trade secrets and other documents that are exempt from public inspection to be printed on yellow paper.**IDAPA 35 - STATE TAX COMMISSION****PO Box 36, Boise, ID 83722-0410****35-0101-0801, Income Tax Administrative Rules.** Adds table for 2008 income tax brackets and rates and removes all but 5 years of historical data; limits the addition to taxable income required for out-of-state rollovers from an Idaho college savings account; clarifies that required bonus depreciation adjustments are for property acquired before 2008; clarifies who qualifies for the deduction for civil service retirement benefits received; deletes information on interest in income limitation and of a pass-through entity limitation; deletes limitations on NOLs of merged corporations not in statute; addresses sourcing of penalty payments and when sourcing determination is made for income received from the sale of intangible personal property; provides that unemployment compensation is Idaho source income to the extent the benefits are received for employment in Idaho; clarifies tax payments for individuals who have income from more than one pass-through entity, but no other income; clarifies when credit for income tax paid to another state is allowed to a qualifying part-year Idaho resident; excludes from the definition of qualified investment the cost

of property for which a deduction for bonus first-year depreciation is claimed; changes amounts of and qualifications for claiming the grocery credit; provides for the calculation of credits when earned by pass-through entities; removes the corporate headquarters credits; addresses requirements to provide W-2 and 1099 information by taxpayers who file electronic returns; identifies the due date for filing information returns; clarifies when the permanent building fund tax must be paid by an entity required to file a return; changes due date for the reconciliation returns from the last day of January to the last day of February; removes obsolete references and replaces them with "electronic filing" for federal W-2 filings.

35-0102-0801, Sales Tax Administrative Rules. Clarifies that contractors or retailers should not charge sales tax to the homeowner for installed real property improvements; exempts from sales tax separately stated charges for personal property tax on leased equipment, if certain conditions apply; requires a "trade-in" to be a single transaction and that the sales documents must describe both the property traded-in and the property purchased; store fixtures and data cables that must be removed from buildings when abandoned are personal property; exempts a business that processes fuel to be used for energy; states that a purchase must be made under the prescription or work order of one of the specifically named types of practitioners; use of the fleet will become taxable on the day after the end of registration period for which the mileage requirement is not met; allows retailers that report less than \$12,000 per year in taxable sales to file annually; redefines "ATV"; deletes requirement that a participating retailer provide a social security number.

35.01.03 - Property Tax Administrative Rules.

35-0103-0802, (Temp & Prop) Changes allocation of occupancy tax revenue among taxing districts and urban renewal allocation areas; adds the instruction to allocate the occupancy tax revenue to the funds listed in HB 470 based on the rate computed by using the full equalized value; provides for property tax exemptions expressed in Idaho Code and that they must be reported to tax commission.

35-0103-0804, Updates incorporation by reference section; increases layers of value data to report for properties receiving the homeowner's exemption; puts certification programs in separate rules and clarifies description and functions of the Tax Commissions Program of Education; establishes requirements and procedures for the Cadastral Certification Program; defines countywide taxing district and stipulates filing requirements; provides that the list required to be filed will serve as the taxpayer's application for exemption and eligibility for exemption requires form to be filed; clarifies the allocation of the exemption between or among counties for transient personal property and allows the taxpayer to choose where exemption will apply; requires that the value of property exempt by statute be reported by taxing district; explains how to value new construction and that taxable portion of the property would be included on the New Construction Roll; provides replacement funds to be paid to counties for exempt personal property; explains how to calculate the tax rate for certain funds; clarifies property tax budget and levy information that must be included in the notice of election to form a new taxing district; requires property tax notice to include amounts to be paid by state and the taxpayer; explains the calculations of deferred taxes for lands that change use and land that change ownership.

35-0105-0801, Motor Fuels Tax Administrative Rules. Adds annual gaseous fuels permit fees; adds biodiesel and biodiesel blends to the fuels list; annual gaseous fuels permit fee payments are required on fuel distributor report; biodiesel and blends received by a distributor are subject to the fuels tax and transfer fee; adds biodiesel producer to rule; defines "qualified consumer" as a person who produces biodiesel for his own use and allows this type of biodiesel producer to file his report annually; requires authorized signature on the distributor's application.

35-0110-0801, Idaho Cigarette And Tobacco Tax Administrative Rules. Adds "or distributors" to rule that exempts sales to out of state wholesalers.

35-0111-0801, Idaho Unclaimed Property Administrative Rules. Unclaimed property reports must meet statutory requirements; states that interest is due from original due date of an unclaimed property report.

35-0201-0801, Tax Commission Administration and Enforcement Rules. Requires taxpayers to provide copies of documents when requested by the Commission to verify the correctness of the tax return; establishes a formula for calculating the yearly interest rate applied to deficiencies of tax and refunds.

IDAPA 37 - DEPARTMENT OF WATER RESOURCES
PO Box 83720, Boise, ID 83720-0098

37-0301-0801, Adjudication Rules. (Temp & Prop) Updates rule to conform to numerous statutory changes; updates

citations to Idaho Code; reduces number of claim forms from 2 to 1.

IDAPA 39 - IDAHO TRANSPORTATION DEPARTMENT

PO Box 7129, Boise ID 83707-1129

39-0317-0801, Rules Governing Permits for Manufactured Homes, Modular Buildings and Office Trailers. (Temp & Prop) Allow manufactured homes, modular buildings, and office trailers to be hauled when wind speeds are up to 30 miles per hour; eliminates the wind-velocity exemption for hauling these structures on a five-axle truck tractor or semi-trailer combination.

39-0322-0801, Rules Governing Overlegal Permits for Extra-Length Vehicle Combinations. (Temp & Prop) Allows vehicles with multiple axle configurations to operate with single tires on those axles but they cannot exceed 600 pounds per inch of tire width.

39-0404-0801, Rules Governing Idaho Airport Aid Program. New application provisions clarify requirements for the distribution of Idaho Airport Aid Program grant funds.

IDAPA 40 - COMMISSION ON THE ARTS

2410 Old Penitentiary Rd. N., Boise, ID 83712

40-0101-0801, Rules of the Idaho Commission on the Arts. (Temp & Prop) Revises eligibility, application, and recipient duties for Commission grants.

IDAPA 41 - PUBLIC HEALTH DISTRICTS

8500 North Atlas Road, Hayden, ID 83835

41-0101-0801, Rules of Public Health District #1. Requires septic system applications to be filed with a building permit; revises application restrictions to allow installation of drainfields prior to building the structure to be served; permitted and installed drainfields would be valid under permit conditions for 5 years, provided they are not substantially modified. Comment by: 10/24/08.

IDAPA 46 - BOARD OF VETERINARY MEDICAL EXAMINERS

PO Box 7249, Boise, ID 83707

46-0101-0801, Rules of the State of Idaho Board of Veterinary Medicine. Establishes a uniform procedure for prescribing and dispensing legal drugs by veterinarians and retail veterinary drug outlets; requires certified euthanasia agencies to purchase approved drugs from a drug wholesaler only; permits an applicant for euthanasia technician certification to demonstrate efficiency in administering euthanasia drugs through alternative methods.

IDAPA 47 - DIVISION OF VOCATIONAL REHABILITATION

PO Box 83720, Boise, ID 83720-0037

47-0101-0801, Rules of the Idaho Division of Vocational Rehabilitation. Addresses service delivery process; updates service delivery manual incorporated by reference; adds language regarding transparency of annual audits for vocational providers.

IDAPA 49 - CERTIFIED SHORTHAND REPORTERS

1109 Main St. Ste. 220, Boise, ID 83702

49.01.01 - Rules of Procedure of the Idaho Certified Shorthand Reporters Board.

49-0101-0701, Corrects Board's legal authority citation, office address and contact information.

49-0101-0801, (Temp & Prop) Requires 14 days for notification of registrant's name or address change; establishes fees and adds that fees are not refundable; clarifies that renewals and reinstatements are subject to statute; Board can terminate applications if inactive for a year; changes temporary certification to a temporary permit; gives Board more flexibility in disciplining licensees including imposition of a civil fine up to \$1,000 for each violation of Board's code; allows Board to recover costs and fees of investigation and prosecution.

IDAPA 52 - IDAHO LOTTERY COMMISSION

1199 Shoreline Lane, Suite 100, Boise, ID 83702

52-0103-0801, Rules Governing Operations of the Idaho State Lottery. Provides for collection of a cost-recovery (convenience) fee for debit card purchases of lottery tickets from Player Activated Terminals.

IDAPA 59 - PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

PO Box 83720, Boise, ID 83720-0078

59-0102-0801, Eligibility Rules of PERSI. Clarifies that if an employee on leave without pay terminates employment without returning to work, the leave without pay status is negated.

59-0104-0801, Disability Rules of PERSI. Requires 5 years of credited service for disability eligibility and includes reference to "general member".

59.01.05 - Separation from Service Rules for PERSI.

59-0105-0801, (Temp & Prop) Allows for rollovers from the base plan to a Roth IRA.

59-0105-0802, (Temp & Prop) Reflects adoption of federal regulations regarding required minimum distributions; allows for non-spouse beneficiary rollovers from the base plan to an IRA.

59-0105-0803, Removes obsolete reference to the Optional Retirement Plan.

59-0106-0801, Retirement Rules of PERSI. Changes "double" employee to "eligible" employee to allow elected or appointed officials who work less than 20 hours per week and reach service retirement age to retire in place and continue working; provides that the defined benefit dollar limitation applicable to a participant retiring prior to age 62 does not apply to classified police officers or firefighters with at least 15 years credited service.

THE FOLLOWING TEMPORARY RULE HAS BEEN ADOPTED:

IDAPA 35 - State Tax Commission

35-0103-0803, Property Tax Administrative Rules.

Please refer to the Idaho Administrative Bulletin, **October 3, 2007, Volume 07-10** for notices and text of all rulemakings, public hearing schedules, Governor's executive orders, and agency contact information.

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